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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,237	02/01/2002	Philippe Legrand	4004-028-30	6310

7590                    03/31/2003

Patent Prosecution Services  
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EXAMINER	
BLACKWELL RUDASIL, GWENDOLYN A	
ART UNIT	PAPER NUMBER

1775

DATE MAILED: 03/31/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/031,237	LEGRAND, PHILIPPE
	<b>Examiner</b> Gwendolyn A. Blackwell-Rudasill	<b>Art Unit</b> 1775

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_.  
 2a) This action is FINAL.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 14-22 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 14-16 and 19-22 is/are rejected.  
 7) Claim(s) 17-18 is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.  
 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.  
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.	6) <input type="checkbox"/> Other: ____.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless –*

*(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

*(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.*

2. Claims 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent no. 5,993,950, Novis et al.

Novis et al disclose a coated glass substrate wherein the first coating can be a layer of aluminum oxynitride with a sub layer of a metal oxide over it, meeting the requirements of claims 14-16, (columns 3-4, lines 38-44).

A chemical composition and its properties are inseparable. *MPEP 2112.02*. Absent an evidentiary showing to the contrary that applicant's claimed invention provides unexpected results over the prior art, the addition of the claimed physical property, refractive index, to the claim fails to provide patentable distinction over the prior art.

The process limitations, "deposited by gas-phase pyrolysis," within claim 14 does not provide patentable distinction over the prior art absent a showing of criticality demonstrating unexpected results between the claimed invention and the prior art.

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3. Claims 14-16 and 19-22 rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent no. 6,498,380, Otani et al.

Otani et al disclose a glass sheet that can have a coating of aluminum oxynitride having a thickness ranging from 10-155 nm. In addition, a coating of doped tin oxide is deposited onto the oxynitride layer, (columns 3, lines 16-50). The layers are formed by pyrolysis where the aluminum layer can be deposited with trimethyl aluminum or aluminum chloride in oxygen, water vapor or the like, meeting the requirements of claims 14-16 and 19-22, (column 5, lines 35-43). Although it is not explicitly stated it is commonly known in the art that ammonia is used as part of the gaseous atmosphere to form aluminum oxynitride by pyrolysis.

A chemical composition and its properties are inseparable. *MPEP 2112.02*. Absent an evidentiary showing to the contrary that applicant's claimed invention provides unexpected results over the prior art, the addition of the claimed physical property, refractive index, to the claim fails to provide patentable distinction over the prior art.

*Allowable Subject Matter*

4. Claims 17 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record do not teach or suggest the composition of the aluminum oxynitride as required in claims 17 and 18.

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***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

United States Patent no. 5,075,265, disclose a method of forming aluminum oxynitride on a substrate using pyrolysis.

United States Patent no. 6,416,890, disclose a solar control coated glass with an undercoat of aluminum oxynitride.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn A. Blackwell-Rudasill whose telephone number is (703) 305-9741. The examiner can normally be reached on Monday - Thursday; 6:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on (703) 308-3822. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Gwendolyn A. Blackwell-Rudasill  
Examiner  
Art Unit 1775

  
gbr  
March 21, 2003

  
DEBORAH JONES  
SUPERVISORY PATENT EXAMINER